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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Case No. 2:20-mj-902-DJA

Plaintiff,

**ORDER to Continue the Preliminary
Hearing (Fifth Request)**

V.

JOSEPH HOLMES and

EMELIO ROCHESTER,

Defendants.

It is hereby stipulated and agreed, by and between Christopher Chiou, Acting United States Attorney, through Jim W. Fang, Assistant United States Attorney, Kathryn Newman, Assistant Federal Public Defender, counsel for Defendant Holmes, and Daniel Hill, Esq., counsel for Defendant Rochester, that the preliminary hearing in the above-captioned matter, previously scheduled for June 7, 2021, at 4:00 p.m., be vacated and continued until a time convenient to the Court, but no earlier than 90 days from the current setting.

1. Federal Rule of Criminal Procedure Rule 5.1(d) provides that “[w]ith the defendant’s consent and upon a showing of good cause—taking into account the public interest in the prompt disposition of criminal cases—a magistrate judge may extend the time

1 limits [for preliminary hearings] one or more times.” Here, the parties desire to explore the
2 potential to resolve this matter before defendants are formally charged by a criminal
3 indictment.

4 2. In that regard, the government has provided defense counsels with limited
5 Rule 16 discovery in order to facilitate pre-indictment resolution. The parties are close to
6 resolving the case and require more time to resolve this matter pre-indictment, taking into
7 account the time needed for the Court to review any resolution the parties may agree to.

8 3. This continuance is not sought for the purposes of delay, but to allow the
9 parties to thoroughly vet the case and reach an agreement as to the final resolution of this
10 case.

11 4. Defendants are not in custody and agree to the continuance.

12 5. Denial of this request could result in a miscarriage of justice, and the ends of
13 justice served by granting this request outweigh the best interest of the public and the
14 defendants in a speedy trial.

15 6. The additional time requested by this stipulation is excludable in computing
16 the time within which indictment must be filed pursuant to the Speedy Trial Act, 18 U.S.C.
17 § 3161(b), and considering the factors under 18 U.S.C. § 3161(h)(7)(A) and (B)(i) and (iv).

18 DATED this 1st day of June, 2021.

19 CHRISTOPHER CHIOU
20 Acting United States Attorney

21 s/ Jim W. Fang
22 JIM W. FANG
23 Assistant United States Attorney
24 Counsel for the United States

21 s/ Kathryn Newman
22 KATHRYN NEWMAN
23 Assistant Federal Public Defender
24 Counsel for Defendant Holmes

21 s/ Daniel Hill
22 DANIEL HILL, ESQ.
23 Counsel for Defendant Rochester

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

V.

Case No. 2:20-mj-902-DJA

JOSEPH HOLMES and

EMELIO ROCHESTER,

Defendants.

FINDINGS AND ORDER

Based on the pending Stipulation between the defense and the government, and good cause appearing therefore, the Court hereby finds that:

1. The parties desire to continue the preliminary hearing to facilitate pre-indictment resolution, and the government has provided defense counsels with limited Rule 16 discovery for that purpose. The parties are in active plea negotiations and require more time to resolve this matter pre-indictment. The Court finds good cause to continue the hearing to allow the parties to reach a pre-indictment resolution.

2. Both counsels for defendants and counsel for the government agree to the continuance.

3. Defendants are not in custody and agree to the continuance.

4. The continuance is not sought for the purposes of delay, but to allow the parties to thoroughly vet the case and reach an agreement as to the final resolution of this case.

5. Denial of this request could result in a miscarriage of justice, and the ends of justice served by granting this request outweigh the best interest of the public and the defendants in a speedy trial.

6. The additional time requested by this stipulation is excludable in computing the time within which indictment must be filed pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b), and considering the factors under 18 U.S.C. § 3161(h)(7)(A) and (B)(i) and (iv).

THEREFORE, IT IS HEREBY ORDERED that the preliminary hearing in the above-captioned matter, previously scheduled for June 7, 2021, at 4:00 p.m., be vacated and continued to September 13, 2021, at 4:00 p.m., Courtroom 3D.

2nd June
DATED this _____ day of _____, 2021.

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HONORABLE DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE